

Panaji, 23rd August, 1984 (Bhadra 1, 1906)

SERIES I No. 21

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Forest and Agriculture Department

Notification

7-2-77-FOR

In exercise of the powers conferred by sub-section (3) of Section 1 of the Goa, Daman and Diu Preservation of Trees Act, 1984 (Act No. 6 of 1984), the Government of Goa, Daman and Diu hereby appoints the 23rd day of August, 1984 as the date on which the provisions of the said Act shall come into force in the whole of the Union Territory of Goa, Daman and Diu.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. M. Naik, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 23rd August, 1984.

Law Department (Legal Advice)

Drafting Section

Notification

LD/9/7/84-(D)

The following Act which was passed by the Legislative Assembly of Goa, Daman and Diu on the 1st day of August, 1984 and assented to by the Administrator of this Union territory on 16-8-1984, is hereby published for the general information of the public.

B. S. Subbanna, Under Secretary (Drafting).

Panaji, 20th August, 1984.

The Goa, Daman and Diu Preservation of Trees Act, 1984.

(Act No. 6 of 1984)

AN
ACT

to provide for the preservation of trees in the Union territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. **Short title, extent and commencement.**— (1) This Act may be called the Goa, Daman and Diu Preservation of Trees Act, 1984.

(2) It shall extend to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification, appoint.

2. **Definitions.**— In this Act, unless the context otherwise requires, —

(a) "Appellate Authority" means an authority appointed by the Government as appellate authority under this Act;

(b) "blank area" means any piece of land (not being under cultivation) measuring one-half of an hectare or more, which has five or less number of trees growing on it per every half hectares;

(c) "Conservator of Forests" means the Conservator of Forests, Goa, Daman and Diu;

(d) "Deputy Conservator of Forests" means a Forest Officer in-charge of a Forest Division and exercising jurisdiction over the area;

(e) "Government" means the Government of Goa, Daman and Diu;

(f) "forest produce" includes —

(a) the following whether found in, or brought from, a forest or not, that is to say —

timber, charcoal, caoutchouc, catechu wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, kuth and myrabolams, and

(b) the following when found in, or brought from, a forest, that is to say —

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned, of trees,

(ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts of produce of animals, and

(iv) peat, surface soil, rock and minerals (including limestone, laterite, mineral oils, and oil products of mines or quarries);

(g) "notification" means a notification published in the Official Gazette;

(h) "rural area" means an area as specified in Schedules I and II;

(i) "to fell a tree" with its cognate expression, means severing the trunk from the roots, uprooting the tree and includes bull-doing, cutting, girdling, lopping, pollarding, applying arboricides, burning or damaging a tree in any other manner;

(j) "tree" means any woody plant whose branches spring from and are supported upon a trunk or body and whose trunk or body is not less than five centimetre in diameter at a height of thirty centimetres from the ground level and is not less than one metre in height from the ground level;

(k) "Tree Officer" means a Forest Officer appointed as such by the Conservator of Forests for the purposes of this Act;

(l) "urban area" means an area comprised in a Municipality and includes such area as may be notified as urban area by the Government from time to time for the purposes of this Act;

(m) "wood lot" means any piece of land of which trees form the main crop, the number of such trees in each hectare being not less than twenty-five;

(n) "prescribed" means prescribed by rules made under the Act;

(o) words and expressions used in this Act and defined in the Indian Forest Act, 1927, but not defined in this Act, shall have the meanings respectively assigned to them in that Act.

Central
Act 16 of
1927

CHAPTER II

Tree Authority

3. Establishment of the Tree Authority. — (1) The Government shall, by notification, constitute a Tree Authority for each revenue district in the Union territory of Goa, Daman and Diu.

(2) The Tree Authority shall consist of the following members, namely: —

(i) Development Commissioner or any other officer not below the rank of Secretary to the Government nominated by the Government — Chairman;

(ii) Collector of the concerned revenue District — Member.

(iii) Two Members of the Legislative Assembly nominated by the Government — Members.

(iv) Two Representatives of the local bodies nominated by the Government — Members.

(v) Conservator of Forests or his nominee — Member-Secretary.

(3) The Tree Authority may co-opt as members in such manner and for such period as it may determine not more than three representatives of non-official organisations and Government Departments having special knowledge or practical experience in the preservation of trees.

4. Meetings of the Tree Authority. — (1) The Tree Authority shall meet at least once in three months at such place and time as the Chairman may decide.

(2) The quorum to constitute a meeting of the Tree Authority shall be three members referred to in sub-section (2) of section 3.

(3) No co-opted member shall have the right to vote at a meeting.

(4) In the case of an equality of votes on any matter, the Chairman shall have a second or casting vote.

CHAPTER III

Officers and Servants

5. Appointment of Tree Officer. — The Conservator of Forests may, appoint one or more Forest Officers of a rank not below that of a Deputy Conservator of Forests, as Tree Officers for the purposes of this Act.

6. Appointment of other Officers. — The Conservator of Forests may, from time to time, appoint such other officers and servants as he may consider necessary who shall be subordinate to the Tree Officer.

CHAPTER IV

Duties of Tree Authority

7. Duties of Tree Authority. — Notwithstanding anything contained in any other law for the time being in force, the Tree Authority shall, subject to any general or special order of the Government, be responsible for —

(a) the preservation of all trees within its jurisdiction;

(b) carrying out census of the existing trees and obtaining, whenever considered necessary, declarations from all owners or occupants about the number of trees in their lands;

(c) specifying standards regarding the number and kind of trees which each locality, type of land and premises shall have and which shall be planted subject to a minimum of five trees per hectare in the case of rural areas;

(d) development and maintenance of nurseries, supply of seeds, sapplings and trees to persons who are required to plant new trees or to replace trees which have been felled;

(e) planting and transplanting of trees necessitated by construction of buildings, new roads or widening of existing roads or replacement of trees which have failed to come up along roads or for safeguarding danger to life and property;

(f) organisation of demonstration and extension services for the purposes of this Act and assisting private and public institutions connected with planting and preservation of trees;

(g) planting and maintaining such number of trees as may be considered necessary according to the prescribed standards on roads, in public parks and gardens and on the banks of rivers or lakes or seashores;

(h) undertaking such schemes or measures as may be directed from time to time by the Government for achieving the objects of this Act;

(i) undertaking critical study of the proposals of various Government Departments and private bodies for construction of buildings, roads, factories, irrigation works, laying out of electric, telephone, telegraphic and other transmission lines with regard to protection of existing trees and planting of more trees, wherever possible; and

(j) promotion, demarcation, acquisition and development of land as wood lots, gardens, parks and picnic spots in cities, towns and villages for the use and recreation of public.

CHAPTER V

Restrictions of felling and removal of trees and liabilities for preservation of trees

8. Restriction on felling and removal of trees. — Notwithstanding anything contained in any other law for the time being in force or in any custom or usage or contract and except as provided in this Act or the rules made thereunder, no person shall fell or remove or dispose of any tree or forest produce in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer:

Provided that if the tree is not immediately felled, there would be grave danger to life or property or traffic, the owner of the land may take immediate action to fell such tree and report the fact to the Tree Officer within twenty-four hours of such felling.

9. Procedure for obtaining permission to fell, cut, remove or dispose of a tree. — (1) Any person desiring to fell or remove or otherwise dispose of by any means a tree, shall make an application to the concerned Tree Officer for permission and such application shall be accompanied by attested copies of the documents as may be prescribed in support of ownership over the land, the number and kind of trees to be cut, their girth measured at a height of 1.85 metres from ground level and the reasons therefor, survey sketch showing clearly the site and survey numbers of the property.

(2) On receipt of the application, the Tree Officer may, after inspecting the tree and holding such enquiry as he may deem necessary, either grant permission in whole or in part or for reasons to be recorded in writing refuse permission:

Provided that such permission shall not be refused if the tree —

- (i) is dead, diseased or wind-fallen; or
- (ii) is silviculturally mature provided it does not occur on a steep slope; or
- (iii) constitutes a danger to life or property; or
- (iv) constitutes obstruction to traffic; or
- (v) is substantially damaged or destroyed by fire, lightning, rain or other natural causes; or
- (vi) is required in rural areas to be cut with a view to appropriating the wood or leaves thereof or any part thereof for bonafide use for fuel, fodder, agricultural implements or other domestic use.

(3) The Tree Officer shall give his decision within sixty days from the date of receipt of the application:

Provided that no permission shall be granted to any person from the same area on more than two occasions during the same year subject to a maximum area of one hectare at a time.

(4) If the Tree Officer fails to communicate his permission or refusal within the period specified under sub-section (3), the permission referred to in section 8 shall be deemed to have been granted.

(5) Every permission granted under this Act shall be in such form and subject to such conditions, including taking of security for ensuring regeneration of the area and replanting of trees or otherwise, as may be prescribed.

10. Obligation to plant trees. — Every person, who is granted permission under this Act to fell or dispose of any tree, shall be bound to plant such number and kind of trees in the area from which the tree is felled or disposed of by him under such permission, as may be directed by the Tree Officer:

Provided that the Tree Officer may, for reasons to be recorded in writing, permit lesser number of trees to be planted or trees to be planted in any different area or exempt any person from the obligation to plant or tend any tree.

11. Planting of adequate number of trees in blank areas. — (1) Every owner of land shall, within a period of two years from the date of commencement of this Act or within such extended period as the Tree Authority may specify in this behalf, plant trees in blank areas so as to conform to the standards specified by it under clause (c) of section 7.

(2) Where the Tree Officer is of the opinion that the number of trees in any land is not adequate according to the standards referred to in sub-section (1), he may issue a notice to the owner of such land to show cause as to why trees as may be specified in such notice should not be planted in such land.

(3) The notice referred to in sub-section (2) shall be given in such form and shall contain such particulars and shall be served in such manner as may be prescribed.

(4) The Tree Officer may, after considering the cause, if any, shown by the owner of such land, direct him to plant such number and class of trees as may be specified in the direction.

12. Preservation of trees. — (1) Subject to the provisions of section 14, it shall be the duty of the owner of the land to comply with an order made under section 9, or a direction issued under section 10 or section 11 and to plant trees in accordance with such an order or direction and to ensure that they grow well and are well preserved.

(2) All the owners shall effectively protect all the trees growing in the lands or the areas under their control and where the Tree Officer is of the opinion that adequate measures have not been taken to protect the trees from any damage, he may direct the owner to take such measures as are considered necessary to protect trees from damage. In case of

default, the tree officer may himself arrange such measures and recover the expenditure thereon from the owner in the prescribed manner.

13. Implementation of order made or directions given under sections 9, 10 and 11 and recovery of expenditure on failure to comply with them. — (1) Every person who is under an obligation to plant trees under an order made under section 9 or a direction given under section 10 or section 11 shall start preparatory work within thirty days of the date of receipt of the order or direction, as the case may be, and shall plant trees in accordance with such order or direction in the ensuing or following rainy season or within such extended time as the Tree Officer may allow and shall provide adequate and effective protection to the trees that exist or are planted in the land or the area from any damage.

(2) In case of default by such person, the Tree Officer may cause trees to be planted and may recover the cost of plantation from such person in the prescribed manner.

14. Adoption of trees. — Notwithstanding anything contained in this Act or in any other law for the time being in force, the Tree Authority may, subject to such terms and conditions as it may specify in that behalf, after giving notice to the owner of the tree to show cause, if any, as to why the tree should not be given in adoption, allow, by a written permission, any body corporate or institution to adopt the tree for such period as may be specified in the permission and during such period, the said body corporate or institution shall be responsible for the maintenance and preservation of the said tree.

15. Appeal. — (1) An appeal shall lie against the order or direction of the Tree Officer under sections 9, 10, 11 and 12 to the Appellate Authority within a period of thirty days:

Provided that an appeal may be admitted after the expiry of the said period of thirty days if the appellant satisfies the Appellate Authority that he had sufficient cause for not preferring the appeal within that period.

(2) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the order or direction appealed against and shall be accompanied by a fee of rupees ten.

(3) In disposing of an appeal, the Appellate Authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

CHAPTER VI

Penalties and Procedure

16. Seizure of property. — Where the Tree Officer has reasons to believe that an offence under this Act is committed in respect of any tree, he may seize the tools, implements, any boats, vehicles, animals or other conveyances used for the commission of the said offence, alongwith the tree or part thereof which has been severed from the ground or the trunk, as the case may be.

17. Forfeiture of timber and other produce from the tree, implements used for felling and the vehicle and animal used for transport of such trees. — (1) Where any person is convicted of an offence under this Act, any timber or the tree in respect of which an offence is committed, the tools and implements used for felling, and any boats, vehicles, animals or other conveyances used for its transport, may be ordered by the court to be forfeited to Government.

(2) Any timber produce from the tree, tools and implements etc. and any boats, animals or other conveyances forfeited under sub-section (1) shall be disposed off by the Tree Officer in such manner as may be prescribed.

18. Power of release property seized under section 16. — The Tree Officer may release the property seized under section 16 if the owner of the land executes a bond in such form as may be prescribed for its production whenever required.

19. Power to arrest without warrant. — (1) Any Tree Officer or a Forest Officer not below the rank of a Forest Ranger or a Police Officer not below the rank of a Sub-Inspector may, without a warrant, arrest any person reasonably suspected of having been concerned in any offence under this Act, and such person refuses to give his name or address or gives a name or address which the concerned officer has reason to believe to be false or if he has reason to believe that the person will abscond.

(2) Any person arrested under sub-section (1) shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate having jurisdiction in the case within twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of the Magistrate.

20. Power to release person arrested. — Any officer who has arrested any person under the provisions of sub-section (1) of section 19 may release such person on his executing a bond with proper surety to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the Police or the Forest Officer not below the rank of Deputy Conservator of Forests or the Tree Officer.

21. Power to prevent commission of offence. — Every Tree Officer or his subordinates or any Forest, Revenue or Police Officer shall prevent and may interfere for the purpose of preventing the commission of any offence under this Act.

22. Power to compound offence. — The Government may, by notification, empower a Tree Officer or any Forest Officer not below the rank of Deputy Conservator of Forests —

(a) to compound any offence committed under this Act on payment of —

(i) a sum not exceeding rupees ten thousand by way of composition for the offence which such person is suspected to have committed, and

(ii) the value of timber and other produce, if any, from the tree in respect of which the offence has been committed.

(b) to release any property seized or liable to confiscation, on payment of the value thereof, as estimated by such officer and the amount determined as payable for composition of the offence, as ordered by the Tree Officer or any Forest Officer, as the case may be.

(2) On the payment of such sums or such value or both, as the case may be, to such Officer, the property seized and the offender, if in custody, shall be released and no further proceedings shall be taken against such offender or property.

23. Contravention of Act to be reported by certain Officers. — It shall be the duty of every forest officer, Panchayat Secretary, Police Constable or any Officer superior to him and every Officer of the Departments of Agriculture, Land Survey and Revenue —

(a) to give immediate information coming to his knowledge, of any contravention of section 8 and of preparation to commit such contravention to the Tree Officer or the Deputy Conservator of Forests;

(b) to take all reasonable measures in his power to prevent such contravention which he may know or have reason to believe that it is about or likely to be committed.

24. Offences by Companies. — (1) If the person committing an offence under this Act is a Company, the Company as well as every person in charge of and responsible to the Company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be prosecuted against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Company and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary, treasurer or other officer of the Company, such director, manager, secretary, treasurer or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. — For the purposes of this section —

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

25. Penalty. — (1) Any person who contravenes any of the provisions of this Act or rules or orders

made thereunder shall, on conviction, be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

(2) Every Forest Officer or Police Officer who vexatiously and unnecessarily arrests or seizes any property on pretence of such property being liable to forfeiture under this Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

26. Award of penalty or forfeiture not to interfere with other punishment. — The award of penalty or forfeiture of any property under this Act shall not prevent the inflicting of any punishment to which the person affected thereby is liable under any other law.

CHAPTER VII

Miscellaneous

27. Officers to be public servants. — The officers exercising powers or discharging any duties or functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Central Act
45 of 1860.

28. Bar of proceedings. — No suit or proceedings shall lie against the Government or any person empowered to exercise power or to perform duties or discharge functions under this Act, for anything done or purporting to be done or omitted to be done in good faith under this Act or the rules and orders made thereunder.

29. Executions of order for payment of money. — Any sum, including any amount for composition of an offence, the payment of which has been directed to be made by any person under this Act shall, without prejudice to any other mode of recovery under any law for the time being in force, be recoverable from him as an arrear of land revenue.

30. Act not to apply to certain areas. — Nothing in this Act shall apply to the Government, a Government forest under the control of the Forest Department, a forest or forest land notified under the Central Act
Indian Forest Act, 1927.
16 of 1927.

31. Power of the Government to exempt. — Subject to such conditions, if any, as may be imposed, the Government may, if it considers it necessary so to do in the public interest, by notification, exempt any area or any species of trees from all or any of the provisions of this Act.

32. Power of the Government for Preservation of trees. — (1) The Government may in the interest of general public, declare by notification that any class of trees shall not be felled for such period as is specified in that notification.

(2) The management of such trees shall be regulated in the prescribed manner.

33. Investing Tree Officer with certain powers. — (1) The Government may, by notification, invest the Tree Officers and other officers with all or any of the following powers, namely: —

(a) power to enter upon any land and to survey, demarcate and make a map of the same;

(b) powers of a civil court to compel the attendance of witnesses and the production of documents and material objects;

(c) power to issue a search warrant under the Code of Criminal Procedure, 1973; Central Act
2 of 1974.

(d) power to hold enquiries into offences under the Act and in the course of such enquiry to receive and record evidence;

(e) power to take possession of property under the Act;

(f) power to direct release of property or withdrawal of charges; and

(g) power to require any person to plant tree or trees of suitable species in adequate numbers on any land owned or occupied by him.

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate if such evidence has been taken in the presence of the accused person and recorded in the manner provided by section 274, section 276 or section 277 of the Code of Criminal Procedure, 1973. Central Act
2 of 1974.

34. Transit of felled material.—The provisions of section 41 of the Indian Forest Act, 1927 and Chapter V of the Goa, Daman and Diu Forest Rules, 1964 shall *mutatis mutandis*, apply to the transit of the felled trees under this Act. Central Act
16 of 1927.

35. Power of the Government to give direction.—The Government may from time to time give to the Tree Officers, other officers of the Tree Authority and officers subordinate to them general or special directions regarding the discharge of their functions and for carrying out effectively the purposes of this Act, and such Tree Officers and other officers shall comply with the directions issued.

36. Power to make rules.—The Government may, by notification, make rules to carry out the purposes of this Act.

37. Provision of this Act to be in addition to any other law for the time being in force.—Nothing in this Act shall be deemed to affect the operation of any other law and the rules made thereunder and the provisions of this Act shall be in addition to and not in derogation of the provisions of the said Act and rules made thereunder.

38. Repeal and saving.—(1) The Goa, Daman and Diu Preservation of Trees (No. 2) Ordinance, 1984 (Ordinance No. 2 of 1984) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.

SCHEDULE I

(See section 2)

Areas comprising of land, outside the urban areas, under cultivation of coconut, areca-nuts, rubber, cocoa, cashewnut, mango, sapota or any other horticultural crop, including woodlots and land belonging to the Government and leased out in favour of others.

SCHEDULE II

(See section 2)

Areas comprising of lands outside the urban areas other than those included in Schedule I.

U. D. SHARMA

Secretary to the Government
of Goa, Daman and Diu,

Law Department
(Legal Advice).

Secretariat,

Panaji-Goa,

Dated:- 20th August, 1984.